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11 **IN THE SUPREME COURT**
12 **STATE OF ARIZONA**
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14 In the Matter of:

15 **PETITION TO AMEND RULE**
16 **38(d), RULES OF THE SUPREME**
17 **COURT**

Supreme Court No. R-15-0022

COMMENT OF
THE CLINICAL PROGRAM OF
THE SANDRA DAY O'CONNOR
COLLEGE OF LAW

18 The Clinical Program at the Sandra Day O'Connor College of Law, by and
19 through its member, Professor M. Robert Dauber, supports Professor Paul
20 Bennett's Petition to amend Rule 38(d), Rules of the Supreme Court, to allow law
21 students to obtain limited practice certification after completing two, rather than
22 the current three, semesters or equivalent hours at an accredited law school. As
23 articulated in Professor Bennett's Petition, clinical instruction and training is one
24 of the most effective ways to impart the skills and values of the legal profession to
25 law students. Expanding opportunities for law students to enroll in clinics, which
the proposed amendment allows, will benefit the public and the profession.

1 The State Bar of Arizona has filed a comment expressing concern about
2 whether law students would have completed all the requisite legal courses in civil
3 procedure, criminal law, evidence and professional responsibility if the rule were
4 amended to allow certification after students' completion of only their first year of
5 study. The student practice rule lists the course prerequisites and co-requisites of
6 certification, and the proposed amendment would not alter those requirements.
7 Under Rule 38(d)(5)(A)(iv), Rules of the Supreme Court, the dean of the
8 accredited school must certify a student as having "either successfully completed
9 or being currently enrolled in and attending, academic courses in civil procedure,
10 criminal law, evidence, and professional responsibility." Students who have taken,
11 or are taking, the required courses should be allowed to participate in a clinic,
12 regardless of whether they are in their third or fourth semester of law school.

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16 The student practice rule protects the public, and ensures competent
17 representation, by limiting the permitted activities of certified students, requiring
18 close supervision by authorized attorneys, and mandating the physical presence of
19 the supervising attorneys at most court hearings. Rule 38(d)(5)(c). Professor
20 Bennett's proposed amendment does not affect these supervision requirements.

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22 The economics of the legal profession have changed. Firms and the
23 practicing bar have less capacity for training new lawyers in the skills and values
24 of the profession. Law schools must meet the increased demand for this training.
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1 Amending Rule 38 to allow students to seek limited practice certification earlier in
2 their second year will help Arizona's law schools meet this goal.
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6 RESPECTFULLY SUBMITTED this 19th day of May, 2015
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9 _____/s/
10 Professor M. Robert Dauber,
11 on behalf of the Clinical Program,
12 Sandra Day O'Connor College of
13 Law

14 Electronic copy filed with the
15 Clerk of the Arizona Supreme Court
16 this 19th day of May, 2015.

17 by: M. Robert Dauber
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